

Joint Standing Committee on Judiciary

LD 346 **An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence** PUBLIC 576

<u>Sponsor(s)</u> RICHARDSON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-754
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LD 346, a bill carried over from the First Regular Session, proposed to reverse current practice in the State and make the Maine rule compatible with the federal rule by prohibiting the introduction of evidence in court when the evidence is related to steps taken after an accident to correct a condition that may have contributed to the accident.

Committee Amendment "A" (H754) proposed to replace the bill with the language contained in the Federal Rules of Evidence, Rule 407. The amendment proposed that the change in the admissibility of evidence of subsequent remedial measures apply to causes of action in which the harm or injury occurred on or after the effective date of this Act.

Enacted law summary

Public Law 1995, chapter 576 inserts into statute the language contained in the Federal Rules of Evidence, Rule 407. It prohibits the introduction of evidence of subsequent remedial measures for the purpose of proving negligence or culpable conduct. Consistent with the federal rule, however, that evidence may be admitted for other purposes. The change in the admissibility of evidence of subsequent remedial measures applies to causes of action in which the harm or injury occurred on or after the effective date of this Act.

LD 423 **An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions** ONTP

<u>Sponsor(s)</u> KIEFFER	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 423, a bill carried over from the First Regular Session, proposed to set a limit of \$250,000 on noneconomic damages in medical liability actions. The bill would not have changed a plaintiff's entitlement to recover for economic losses, including all medical expenses, rehabilitation services, custodial care, loss of earnings and earning capacity, loss of income and other verifiable monetary losses.

LD 526 **An Act to Amend the Statute of Limitations for Health Care Providers and Health Care Practitioners to Include a Discovery Rule** ONTP

<u>Sponsor(s)</u> TREAT RAND	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 526, a bill carried over from the First Regular Session, proposed to enact a discovery rule with respect to the statute of limitations for medical malpractice actions. Current law imposes a 3-year statute of limitations in medical malpractice actions with the 3-year period running from the date of the act or omission causing the harm or, in cases involving a foreign object left in the body, the 3 years runs from the date of discovery of the harm. The bill would have required the 3-year period to run from the date of discovery of the harm in all cases.

LD 636 An Act to Modify Joint and Several Liability in Medical Malpractice Actions ONTP

<u>Sponsor(s)</u> RUHLIN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 636, a bill carried over from the First Regular Session, proposed to modify the principle of joint liability in medical malpractice cases. Under this bill, multiple defendants in these cases would have remained jointly liable for all damages awarded for economic loss and would have remained jointly liable for noneconomic loss unless a defendant were found to be less than 25% at fault as compared with other defendants. For such a defendant, the liability for non-economic damages would have been based on the degree of fault but that defendant would have remained jointly liable for all economic damages.

LD 658 An Act Concerning Real Estate Trusts PUBLIC 523

<u>Sponsor(s)</u> OTT	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-704
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LD 658, a bill carried over from the First Regular Session, proposed to provide that real estate trusts are not invalidated if a trustee is not named at the creation of the trust.

Committee Amendment "A" (H704) proposed to replace the bill. It would have provided that deeds to or from a trust would not be invalidated for failure to name a trustee as grantor or grantee. It would not have changed the status of a trust into an entity capable of holding or conveying title in its own name; nor would it apply to trusts which already are such entities. The amendment would have provided for the preservation of claims of any person claiming the invalidity of such a deed delivered before the bill's effective date.

Enacted law summary

Public Law 1995, chapter 523 replaces the bill. It provides that deeds to or from a trust will not be invalidated for failure to name a trustee as grantor or grantee, but it does not change the status of a trust into an entity capable of holding or conveying title in its own name. It does not apply to trusts which already are such entities. The law also provides for the preservation of claims of any person claiming the invalidity of such a deed delivered before the law's effective date.

LD 742 An Act Regarding Wrongful Death Actions PUBLIC 577

<u>Sponsor(s)</u> LAFOUNTAIN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-755
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LD 742, a bill carried over from the First Regular Session, proposed to amend the law regarding wrongful death actions by removing the existing cap of \$75,000 on the amount of damages that may be awarded to the family of the deceased to compensate for the loss of comfort, society and companionship of the deceased. The bill also proposed to extend the time limit for filing an action from 2 years to 6 years after the decedent's death.

Committee Amendment "A" (H/55) proposed to replace the original bill with a cap of \$150,000 on nonpecuniary damages for the family members to compensate for their loss. The amendment would not have changed the 2-year limitation period for filing an action that is in current law.

Enacted law summary

Public Law 1995, chapter 577 amends the law regarding wrongful death actions by increasing the cap to \$150,000 on the nonpecuniary damages that may be awarded to the family to compensate for the loss of comfort, society and companionship of the deceased.

**LD 916 An Act to Improve the Function of the Maine Health
Security Act**

PUBLIC 571

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-462

LD 916, a bill carried over from the First Regular Session, proposed to change the law governing mandatory prelitigation screening and mediation panels. It would have provided that if a panel motion hearing has not concluded within 9 months of service of the notice of claim, the claimant may bypass panel proceedings and commence a lawsuit. It would have revised the specific findings required to be made by the panel at the conclusion of its deliberations and would have added the requirement that if the panel finds that there was negligence and causation, the panel would also have to decide whether the evidence was clear and convincing. The bill also proposed to amend the conditions under which the findings of the panel would be admissible in subsequent court actions.

Committee Amendment "A" (S/462) would have replaced the original bill. Under the current law requiring prelitigation screening and mediation panels for claims of professional negligence, a hearing on such a claim must be held no later than 120 days from the service of the notice of claim. This bill proposed to change the deadline to 6 months from the service of the notice of claim and proposed to clarify that this time period may be extended by the panel chair.

Enacted law summary

Public Law 1995, chapter 571 extends the time period in which a hearing must be held before a prelitigation screening and mediation panel for claims of medical malpractice. The time period is extended from 120 days to 6 months from the service of the notice of claim. This time period may be extended by the panel chair.

**LD 1331 An Act Relating to Confidentiality of Records and the
Prevention of Child Sexual Abuse**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON	ONTP MAJ OTP-AM MIN	

LD 1331, a bill carried over from the First Regular Session, proposed to provide law enforcement officials access to certain records about teachers that are in the possession of a school administrative unit if those records would assist the officials in investigating potentially criminal activity. The bill also would have permitted the Department of Human Services to release information in child protective records to certain school administrators and to the directors of organizations or state agencies that provide direct services to children, employ persons to provide direct services to children or contract with the Department of Human Services or the Department of Mental Health and Mental Retardation to provide direct services to children.

Committee Amendment "A" (HB69) is the Minority Report. It would have replaced the bill, although it retained the central purpose of protecting children in school situations in which the Department of Human Services has substantiated information about a person working with those children.

The amendment would have created a new provision in the Child and Family Services and Child Protection Act. The new provision would have given the department discretionary authority to disclose certain information in the very specific circumstances. The child would have to be at risk of being abused based on substantiated information in the possession of the department; the department reasonably believed that the child could not be protected without disclosing the information to the superintendent of the school district or the chief administrator of a private school; and the department would have to notify the person before the information could be released unless the notification would increase the risk to the child. (Not adopted)

LD 1358 An Act to Establish Limited Liability Partnerships

PUBLIC 633

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN DORE	OTP-AM	S-450 S-575

LD 1358, a bill carried over from the First Regular Session, proposed to allow the formation of limited liability partnerships under the Uniform Partnership Act. The bill also proposed conforming amendments to other chapters of the statutes and proposed to clarify that the transfer of real property within a limited liability partnership would not be not a taxable event.

Committee Amendment "A" (S450) was the result of the collaborative effort of many people. The Joint Standing Committee on Judiciary requested in 1995 that the Secretary of State convene a study group of interested persons to identify and try to resolve issues raised by the proposal to allow the formation or election of limited liability partnerships in Maine. The amendment is the study group's draft, with modifications made by the Judiciary Committee.

The amendment proposed to allow a general partnership to preserve its traditional structure and any preexisting agreements between the partners, while offering the partners some protection from vicarious liability for claims arising from the conduct of the partnership's business by electing

LLP status. The amendment proposed provisions governing filing liability of professional LLPs and authorized use of names and initials.

The amendment would have added an appropriation and a fiscal note to the bill.

Senate Amendment "A" To Committee Amendment "A" ~~(\$75)~~ proposed to delete references to a deleted requirement that a limited liability partnership submit a list of all the partners upon the request of the Secretary of State.

Enacted law summary

Public Law 1995, chapter 633 allows general partnerships to elect limited liability status. The LLP election allows a general partnership to preserve its traditional structure and any preexisting agreements between the partners, while offering the partners some protection from vicarious liability for claims arising from the conduct of the partnership's business.

If a partnership fails to comply with certain filing requirements, it is the status of the partnership as an LLP, with all the associated protections from liability, that is revoked and not the partnership's ability to conduct business in this State. The partnership is also free to rescind its status as an LLP at any time.

The internal governance of the LLP is subject to the State's general partnership law and any partnership agreement between the parties.

Chapter 633 allows general partnerships formed for any legal purpose, whether by professionals or nonprofessionals, to make the LLP election. Under Maine law, professionals forming corporations are subject to the Maine Professional Service Corporation Act (PSCA). This chapter incorporates the liability provisions of PSCA that apply to professionals.

This chapter provides that a general partnership electing LLP status must indicate that status by using in its name either "Limited Liability Partnership," "L.L.P." or "LLP." This chapter revises the limited partnership law to allow the use of the abbreviation "L.P." or the designation "LP" and revises the limited liability company law to allow the use of the abbreviation "L.L.C." or the designation "LLC."

This chapter establishes how certain filings of the LLP are to be executed. When an LLP fails to deliver its annual report or maintain a registered agent and office or otherwise fails to comply with the law, the Secretary of State may revoke its status as a limited liability partnership. Because LLP status is an election of a general partnership, revocation of that status causes only the loss of the protection from liability, not a suspension from conducting business as a partnership.

This chapter requires that the contact partner be disclosed in the initial certificate of limited liability partnership and that it be kept current. In addition, the names and addresses of all the partners must be included in the annual report.

**LD 1371 An Act Relating to Civil Actions, Providing for the
Defense of Assumption of Risk, Providing for Standards of
Liability in Product Liability Actions and Providing for
Standards and Procedures in Awarding Punitive Damages**

ONTP

Sponsor(s)
CIANCHETTE

Committee Report
ONTP

Amendments Adopted

LD 1371, a bill carried over from the First Regular Session, proposed several changes to the laws relating to civil actions seeking damages. The bill would have established assumption of risk as an independent defense. Under current law, assumption of risk is relevant only as a factor to be considered in the comparative negligence determination.

The bill also proposed that a product manufacturer or seller could not be held liable for damage caused by an aspect of the product that was an inherent characteristic of that type of product and that was known to the ordinary consumer. LD 1371 also proposed that a plaintiff claiming that a product was defectively designed would have to establish that a safer alternative design existed that would have avoided the harm, a modification of Maine's existing "dangerousness" test for product defects, under which the existence of a feasible alternative design is one of three relevant factors.

LD 1371 also would have established a number of procedural and substantive rules relating to the award of punitive damages in civil cases. The bill would have barred plaintiffs from demanding a specific amount of punitive damages in the complaint, permitted bifurcation of civil trials into liability and punitive damages phases, established factors for consideration in determining the appropriate level of punitive damages, applied existing comparative negligence principles to punitive damages awards, codified the requirement that the plaintiff prove by clear and convincing evidence that the defendant acted with malice in order to sustain a punitive damages award, limited the amount of punitive damages to 2 times the amount of compensatory damages or \$350,000, restricted the availability of multiple punitive damages awards for the same conduct and limited the availability of punitive damages for conduct regulated by the government.

**LD 1445 An Act to Limit the Liability of Property Owners in Cases of
Nonnegligent Lead Poisoning**

PUBLIC 572
EMERGENCY

Sponsor(s)
BERUBE

Committee Report
OTP-AM

Amendments Adopted
S-463

LD 1445, a bill carried over from the First Regular Session, proposed to limit the liability of landlords for lead poisoning to \$250,000 unless the landlord had actual notice of conditions likely to cause lead poisoning and refused to take corrective action.

Committee Amendment "A" (S463) proposed to replace the original bill. The amendment would have added an emergency preamble, lowered the current cap on lead poisoning liability from \$750,000 to \$600,000 and changed the repeal date for the cap from April 15, 1996 to October 1, 1999. The amendment also proposed to create a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead-poisoned children and mechanisms to financially assist property owners in lead abatement. The proposed task force would have to report to the legislative committees having jurisdiction over judiciary and human resources matters by November 1, 1998. The amendment also included a fiscal note.

Enacted law summary

Public Law 1995, chapter 572, enacted as an emergency, lowers the cap on lead poisoning liability from \$750,000 to \$600,000 and changes the repeal date for the cap from April 15, 1996 to October 1, 1999. It also creates a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead-poisoned children and mechanisms to financially assist property owners in

lead abatement. The task force is required to report to the joint standing committees of the Legislature having jurisdiction over judiciary and human resources matters by November 1, 1998. Public Law 1995, chapter 572 is effective March 29, 1996.

LD 1448 An Act to Reconcile Rights and Responsibilities with Respect to Sexual Orientation and Related Matters ONTP

Sponsor(s)
BERUBE

Committee Report
ONTP

Amendments Adopted

LD 1448 proposed to reconcile the respective rights and responsibilities of individuals, business and organizations with respect to issues of sexual orientation and related matters.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment and housing against a person who has been the victim of a crime involving violence or the threat of violence and who reports that crime to law enforcement, provided that person was not involved in criminal conduct or misconduct relating to employment.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment, housing, access to public accommodations and credit based on sexual orientation. The bill proposed to define the term "sexual orientation" as the status or tendency toward homosexual or heterosexual attraction but the bill would not have expressly protected any form of sexual behavior, conduct or lifestyle that may be related to a sexual orientation. LD 1448 would have exempted religious organizations and certain nonprofit organizations from the provisions of the Act relating to sexual orientation.

LD 1448 would have provided that an employer or insurer is not required to provide insurance or other employee benefits to persons involved in homosexual relationships with an employee because the employer provides those benefits to employees' spouses and children and that employers are not required to engage in affirmative action or to keep employment records relating to sexual orientation.

LD 1448 would have prohibited lawsuits under the Maine Human Rights Act that force participation of groups in privately sponsored events such as parades or conventions for the purpose of advocating a certain lifestyle based on sexual orientation.

LD 1448 would have prohibited lawsuits based on sexual orientation discrimination against employers with less than 15 employees who are exempt from a lawsuit under the federal Americans with Disabilities Act and against landlords who own less than 5 rental units or who reside in the building in question.

LD 1448 would have prohibited lawsuits to force any school to incorporate any particular view of homosexual orientation or behavior in its curriculum and would have expressly left these other decisions under the jurisdiction of local school boards and governing bodies of educational institutions.

LD 1448 would not have required the placement of any child for adoption or foster care when one or more of the prospective parents is homosexual and any person or agency responsible for the placement of a child would have been lawfully able to consider the sexual orientation of the prospective parents. The bill proposed to expressly affirm public policy in support of marriage and makes clear that marriage is limited to one female and one male and that other forms of

relationships or arrangements, whether or not sanctioned by another state, are not recognized in Maine as a marriage or marriage equivalent.

LD 1448 would have made it a crime of sexual abuse of a minor for a person to engage in a sexual act or sexual contact with a minor of the same gender who is more than 3 years younger than the actor. Current law applies only when the actor is at least 5 years older, if the minor is between 14 and 16 years of age and an adult of any age can lawfully engage in sexual activity with a minor who is 16 or 17 years of age.

The Committee voted ONTP without a public hearing at the request of the sponsor.

LD 1517 An Act to Create the Sunshine in Litigation Act ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	ONTP	

LD 1517, a bill carried over from the First Regular Session, proposed to prohibit courts from entering orders or approving agreements that would have the effect of concealing public hazards by suppressing information that would be helpful to the public in protecting themselves from public hazards.

LD 1618 An Act to Reform the Standard of Fiduciary Prudence PUBLIC 525

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AMERO	OTP-AM	S-432

LD 1618 proposed to remove constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same efficient way that private investors, investment advisors and custodians manage other assets. It would have created the Maine Uniform Prudent Investor Act.

The bill would have been effective January 1, 1997.

Committee Amendment "A" (S432) proposed to correct 2 typographical errors.

Enacted law summary

Public Law 1995, chapter 525 removes constraints in order to allow fiduciaries to manage trust, estate and conservatorship portfolios in the same way that private investors, investment advisors and custodians manage other assets. The chapter creates the Maine Uniform Prudent Investor Act, as approved by the National Conference of Commissioners on Uniform State Laws in its 1994 Annual Conference.

The most significant change made by Chapter 525 is an alteration in the standard for judging whether fiduciaries have invested in accordance with the "prudent person rule." This chapter changes the focus of the prudence inquiry from each asset individually to the portfolio as a whole. This chapter also states a preference for diversification of investment portfolios in order to reduce risk. This chapter applies the new rules on prudent investing to conservators as well as to trustees.

Chapter 525 recognizes that personal representatives operate under different circumstances than trustees and conservators. To encourage cooperation by personal representatives with devisees, this chapter exculpates personal representatives who invest estate assets in accordance with the instructions of the devisees who are the beneficial owners of the assets.

Chapter 525 adopts the commissioners' proposed transitional rule, which is consistent with the transitional rules employed when the uniform Probate Code became effective in Maine.

Public Law 1995, chapter 525 is effective January 1, 1997.

LD 1624 An Act to Update and Clarify the Corporate Laws

PUBLIC 514

Sponsor(s)
MILLS

Committee Report
OTP-AM

Amendments Adopted
S-417

LD 1624 proposed to establish a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The bill would have made technical corrections and change a crossreference.

Committee Amendment "A" (S417) would have allowed limited liability companies to state the minimum and maximum number of managers permitted in their articles of organization.

Enacted law summary

Public Law 1995, chapter 514 establishes a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The chapter also makes technical corrections and changes a crossreference.

Chapter 514 allows limited liability companies to state a minimum and maximum number of managers in their articles of organization.

LD 1625 An Act to Restore the Safety Defense to the Maine Human Rights Act

PUBLIC 511
EMERGENCY

Sponsor(s)
MILLS

Committee Report
OTP

Amendments Adopted

LD 1625 proposed to add language to the Maine Human Rights Act referring to the "direct threat" defense of the federal Americans with Disabilities Act. It also would have restored a reference to the Maine Human Rights Act's longstanding "safety defense."

Enacted law summary

Public Law 1995, chapter 511 adds to the Maine Human Rights Act necessary references to the "direct threat" defense found in the federal Americans with Disabilities Act. The chapter also restores reference to the Maine Human Rights Act's longstanding "safety defense" which has been interpreted by the Maine Law Court in numerous cases in a way beneficial to both employers and employees.

Public Law 1995, chapter 511 is effective February 22, 1996.

LD 1626 An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public ONTP

Sponsor(s)
MILLS

Committee Report
ONTP

Amendments Adopted

LD 1626 would have established the funding mechanism required by the Maine Revised Statutes, Title 16, section 623, which was enacted by Public Law 1993, chapter 719, section 9, to cover the costs associated with providing access to and copying intelligence and investigative information available to the public pursuant to the Maine Revised Statutes, Title 1, chapter 13 and Title 16, chapter 3, subchapter VIII. All funds collected would have to be deposited to the General Fund.

LD 1629 An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and Providing for Further Review of Rules PUBLIC 537

Sponsor(s)

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted
H-711

LD 1629 was the unanimous report of the Study Commission on Property Rights and the Public Health, Safety and Welfare, created by Resolve 1995, Chapter 45. The bill proposed to establish a mediation program for landowners aggrieved by government regulation.

The bill proposed to require that the Attorney General disapprove any proposed agency rule that is reasonably expected to result in an unconstitutional taking of private property unless the taking is expressly authorized by the Legislature or unless there are sufficient variance provisions to avoid a taking.

Under current law, before adoption of any "major substantive" rule, the issuing department must submit the rule for review by the appropriate legislative committee of jurisdiction that oversees that department. The committee ensures that the rule is consistent with statutory authority, that it conforms with legislative intent, that it does not conflict with other laws and that it is necessary, reasonable and not overly complex. LD 1629 would have added the following 2 review criteria for agency rules identified as possibly causing significant reductions in property values.

1. Are there variances available to avoid an unconstitutional taking of private property?
2. Regardless of whether a taking might result, is the expected reduction in property values necessary or appropriate for the public protection advanced by the rule?

Committee Amendment "A" (H/11) is the Majority Report. It proposed several minor changes to the mediation program proposed by the original bill governing immunity for mediators, fees, filing periods, stay of appeal periods, mediator authority and reports.

Enacted law summary

Public Law 1995, chapter 537 accomplishes three main objectives. First, it establishes a mediation program to provide landowners with a prompt, independent, inexpensive and local forum in which to resolve land use disputes without going to court. Second, it specifically requires the Attorney General, when reviewing proposed agency rules under the Administrative Procedure Act, to disapprove any rule that is reasonably expected to result in an unconstitutional taking of private property unless the taking is expressly authorized by the Legislature or unless there are sufficient variance provisions to avoid a taking. Third, the Administrative Procedure Act is amended with regard to Legislative Committee review of "major substantive" rules. In addition to the existing criteria for rules, Committees will also take into consideration the following 2 criteria for those rules that may cause significant reductions in property values.

1. Are there variances available to avoid an unconstitutional taking of private property?
2. Regardless of whether a taking might result, is the expected reduction in property values necessary or appropriate for the public protection advanced by the rule? This second criterion is based on public policy judgments and is not limited to any constitutional standard. It is not necessary for the landowner to claim a "taking."

Mediation is available under the Land Use Mediation Program for governmental land use actions, including failure and refusal to act, that occur after the effective date of the law. Once an application is filed with the Court Mediation Service, the time for further appeal is stayed for a period of no more than 120 days while the attempt is made to achieve a mediated settlement.

The program is self-funded through fees, paid by the requesting party. The mediator is responsible for scheduling the mediation sessions and providing all the information necessary for the Superior Court clerk to mail notice of the schedule to participants. One of the responsibilities of the mediator is to balance the need for public access to proceedings involving a governmental entity with the appropriate alternative dispute resolution techniques necessary for effective mediation of the conflict. The mediator has the power to determine who is necessary for effective mediation and include them in the process. Although state agencies are required to participate when determined by the mediator to be necessary to the mediation, municipal participation is voluntary.

The mediator must file a report with the Superior Court clerk within 90 days after the landowner applies for mediation. The report must be filed as soon as possible if the mediator determines a mediated agreement is not possible. The report must contain the names of the participants, the nature of any agreements and what further action is anticipated, the nature of unresolved issues and a copy of the signed mediation agreement.

The existing Land and Water Resources Council is required to report on the functioning of the program in December 1998 and in December 2000. The program is repealed October 1, 2001.

LD 1634 An Act to Clarify Professional Liability

PUBLIC 526

Sponsor(s)
MILLS

Committee Report
OTP

Amendments Adopted

LD 1634 proposed to amend the laws governing the liability of a shareholder of a professional corporation for negligence in rendering a professional service. Current law provides that a shareholder is jointly and severally liable for claims arising from the rendering of a professional service by a professional corporation if that shareholder either personally and directly participated in providing the service that was performed negligently or supervised and controlled that portion of a professional service rendered by another that was performed negligently. LD 1634 proposed

to add the requirement that the shareholder must have directly supervised and controlled that portion of a professional service rendered by another that was performed negligently in order for that shareholder to be held liable.

Enacted law summary

Public Law 1995, chapter 526 amends the laws governing the liability of a shareholder of a professional corporation to provide that a shareholder is jointly and severally liable for claims arising from the rendering of a professional service by a professional corporation if that shareholder directly supervised and controlled that portion of a professional service rendered by another that was performed negligently. Current law does not specify that the shareholder must directly supervise or control the service rendered by another.

LD 1667 Resolve, to Improve Tribal and State Relations

RESOLVE 84

Sponsor(s)
JACQUES

Committee Report
OTP-AM

Amendments Adopted
H-856
S-537

LD 1667 proposed to improve tribal and state relations by strengthening the Maine Indian Tribal-State Commission by adding to the commission's membership and by providing a modest increase in the budget. The bill was originally titled "An Act to Improve Tribal and State Relations by Strengthening the Maine Indian Tribal-State Commission."

Committee Amendment "A" (H-856) proposed to replace the original bill and make it a resolve with a new title. The amendment would have required the Maine Indian Tribal-State Commission to establish a Task Force on Tribal-State Relations to report back to the Legislature and all the federally recognized Indian tribes within the State by December 15, 1996 with recommendations to improve tribal-state relations. The amendment proposed to retain the increase of funding of the Maine Indian Tribal-State Commission contained in the original bill.

Senate Amendment "A" To Committee Amendment "A" (S-537) proposed to correct language in an appropriation section to remove an incorrect reference to the Maine Indian Claims Settlement Act.

Enacted law summary

Resolve 1995, chapter 84 requires the Maine Indian Tribal-State Commission to establish a Task Force on Tribal-State Relations to report back to the Legislature and all the federally recognized Indian tribes within the State by December 15, 1996 with recommendations to improve tribal-state relations. The task force shall examine possible roles in the Maine Indian Tribal-State Commission for the Houlton Band of Maliseets and the Aroostook Band of Micmacs and evaluate the effectiveness of the commission. The commission must establish the membership of the task force based on its determination of what composition will be the most effective.

Resolve 1995, chapter 84 increases the ongoing funding obligation of the Maine Indian Tribal-State Commission. Funding for the task force will be paid from the State's and the tribes' matching contributions to the funding of the commission.

LD 1707 An Act to Clarify the Landowner Liability Laws

PUBLIC 566

Sponsor(s)Committee Report
OTP-AMAmendments Adopted
H-730

LD 1707 was submitted by the Commission to Study the Trespass Laws, created by Resolve 1995, chapter 53. It proposed a number of changes to the landowner liability laws, which limit the duty of care owed by landowners to persons who use their property for recreational or harvesting activities. The bill would have added dog sledding and equine activities to the list of activities that are specifically included in the definition of "recreational or harvesting activities." The bill also would have clarified that the limitation on the duty of care applies to landowners regardless of whether they have granted permission to use their property to another person.

Committee Amendment "A" (H/30) proposed to add the to the list of activities specifically included in the definition "recreational and harvesting activities" environmental education and research, volunteer maintenance and improvement of premises and the harvesting of marine and field products, such as herbs, berries and wild edibles. The amendment also proposed a clarification that "recreational and harvesting activities" does not include commercial agricultural or timber harvesting and proposed adding "easement holders" to the list of persons protected by the law.

Enacted law summary

Public Law 1995, chapter 566 made a number of changes to the landowner liability laws, which limit the duty of care owed by landowners to persons who use their property for recreational or harvesting activities. It adds the following to the list of activities that are specifically included in the definition of "recreational or harvesting activities:" Dog sledding, equine activities, environmental education and research, volunteer maintenance and improvement of premises and the harvesting of marine and field products, such as herbs, berries and wild edibles. It clarifies that "recreational and harvesting activities" does not include commercial agricultural or timber harvesting. Chapter 566 also clarifies that the limitation on the duty of care applies to landowners, regardless of whether they have granted permission to use their property to another person and that the law includes all landowners, lessees, managers, easement holders and occupants.

LD 1708 An Act to Amend the Laws Relating to Recovery for Property Damage

PUBLIC 585

Sponsor(s)Committee Report
OTP-AMAmendments Adopted
H-753

LD 1708 was submitted by the Commission to Study the Trespass Laws, created by Resolve 1995, chapter 53. LD 1708 would have allowed landowners to recover treble damages for property damaged by a trespasser on posted or unposted land and would have also provided for recovery of costs and reasonable attorney's fees.

LD 1708 also proposed to amend the law allowing for recovery of enhanced damages from a person who destroys or damages trees, agricultural products or survey markers. In addition to recovering double damages for negligent damage and treble damages for intentional damage as allowed under current law, the owner would have been entitled to recover the reasonable costs of professional services, including attorney's fees. This bill would have extended the law to permit enhanced recovery by the owner for damage to any road, drainage ditch, culvert or bridge or for disposal of litter, and outlines how such damage would be measured. The bill also proposed a

minimum damage award of \$250 for negligent damage and \$500 for intentional damage. LD 1708 also would have permitted an owner to recover any costs the owner incurs if the damage results in a violation of any other ordinance or law and, as a result, the owner becomes involved in an enforcement proceeding. These costs would have included legal fees and the value of the owner's time spent on involvement in the enforcement proceeding.

Committee Amendment "A" (H/53) proposed to replace the original bill and restructure the proposal and current law so that damage to forest products, agricultural products and survey markers would be addressed in a different section than other types of damage to property.

In cases in which agricultural products, forest products or survey markers are damaged, the amendment proposed the same provisions as in the original bill: a minimum damage award of \$250 for negligent damage and \$500 for intentional damage and the recovery of costs associated with an enforcement proceeding if the damage results in a violation of any federal, state or local law or ordinance. The amendment also proposed to clarify that the landowner may recover the cost of a new boundary survey if a boundary marker is destroyed or removed.

The amendment proposed to add a separate section containing the current provisions on other forms of damage to property and certain new proposals. The amendment would have added damage to roads and culverts, and added littering and dumping as types of damage for which a trespasser would be liable and would have specified the mechanism for determining the amount of damages incurred. If the damage was caused intentionally, the amendment proposed that the trespasser be liable for 2 times the actual damages plus attorney's fees. The owner could also recover the costs associated with an enforcement proceeding if the damage resulted in a violation of any federal, state or local law or ordinance. The amendment also would have prohibited recovery under both provisions for the same specific damage and added a fiscal note.

Enacted law summary

Public Law 1995, chapter 585 restructures and expands upon current law relating to recovery for property damage. Damage to agricultural products, forest products and survey markers is separated from other types of damage to property. In cases in which agricultural products, forest products or survey markers are damaged, chapter 585 retains double damages for negligent acts and treble damages for intentional acts and provides a minimum damage award of \$250 for negligent damage and \$500 for intentional damage. Chapter 585 permits the recovery of costs associated with an enforcement proceeding if the damage results in a violation of any federal, state or local law or ordinance. It also clarifies that the landowner may recover the cost of a new boundary survey if a boundary marker is destroyed or removed.

In cases involving other types of damages, chapter 585 expands on current law to provide that a person who trespasses onto another's land is liable to the owner for damages caused and attorney's fees. It adds damage to a road, drainage ditch, culvert, bridge or sign as well as littering and dumping as types of damage for which a trespasser is liable, and specifies the mechanism for determining the amount of damages incurred. If the damage is caused intentionally, the trespasser is liable for 2 times the actual damages plus attorney's fees. The owner may also recover the costs associated with an enforcement proceeding if the damage results in a violation of any federal, state or local law or ordinance. Chapter 585 prohibits recovery of damages for the same specific damage under both of the sections of Title 14 permitting recovery for property damage.

**LD 1729 Resolve, to Require the Study of the Medical Liability
Prelitigation Screening Panels**

**RESOLVE 76
EMERGENCY**

Sponsor(s)Committee Report
OTP-AMAmendments Adopted
H-821

LD 1729, a recommendation of the Health Care Reform Commission created by Public Law 1993, chapter 707, proposed to require the Bureau of Insurance to convene a committee of experts in research methods to design an analysis of the effectiveness of the mandatory prelitigation screening and mediation panels required by the Health Security Act. The Bureau would have been required to collect the data needed for the study and then commission a study to be conducted by experts in medical liability.

Committee Amendment "A" (H821) proposed to replace the resolve entirely but would have retained the objective of conducting a study of the effectiveness of the prelitigation screening panels. The amendment proposed that the Bureau of Insurance provide a summary report to the Legislature on claims data and the panel process over the past 5 years compiled from data currently held by the bureau, the courts and the insurers. The amendment also proposed that the bureau retain a research consultant to analyze the data compiled by the bureau and to make recommendations for the collection of data for future study. The bureau's summary report, the consultant's analysis, the consultant's recommendations and any necessary legislation would be submitted to the Judiciary Committee during the First Regular Session of the 118th Legislature. The amendment would have required the bureau to convene an advisory panel to provide advice on the subject of the study. The amendment also would have added an emergency preamble, an emergency clause, an allocation section and a fiscal note to the resolve.

Enacted law summary

Resolve 1995, chapter 76, enacted as an emergency, requires the Bureau of Insurance to provide a summary report to the Legislature on claims data and the panel process over the past 5 years compiled from data currently held by the bureau, the courts and the insurers. The bureau is also required to retain a research consultant to analyze the data compiled by the bureau and to make recommendations for the collection of data for future study. The bureau's summary report, the consultant's analysis, the consultant's recommendations and any necessary legislation must be submitted to the Judiciary Committee during the First Regular Session of the 118th Legislature. The bureau must convene an advisory panel to provide advice on the subject of the study. An allocation section is included to cover the cost of retaining a research consultant.

Resolve 1995, chapter 76 is effective April 8, 1996.

**LD 1739 An Act Authorizing Officers of Closely Held Corporations
to Represent those Corporations before Any Court****PUBLIC 599**Sponsor(s)
CARRCommittee Report
ONTP MAJ
OTP-AM MINAmendments Adopted
H-770

LD 1739 proposed to allow officers of closely held corporations to represent those corporations before any court.

Committee Amendment "A" (H770) is the Minority Report. It proposed to limit a nonattorney's activity in court on behalf of a corporation. If the corporation has one or two shareholders, an officer of the corporation would have been permitted to represent the

corporation in any court, but only for the purposes of defending a civil action filed against the corporation, despite the fact that the officer is not an attorney admitted to practice in this State.

Enacted law summary

Public Law 1995, chapter 599 allows an officer of a corporation to represent the corporation in court if the corporation has one or 2 shareholders, but only for the purposes of defending a civil action filed against the corporation, despite the fact that the officer is not an attorney admitted to practice in this State.

LD 1758 An Act to Amend the Protection from Abuse and Protection from Harassment Statutes PUBLIC 650

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-751 S-581

LD 1758 was submitted on behalf of the Judicial Department whose Protection from Abuse and Protection from Harassment Team proposed the changes. The bill proposed a number of language and allocation changes necessary to clarify and harmonize the statutes that govern protection from abuse and protection from harassment actions.

The bill proposed to repeal and replace the definition of "harassment." Jurisdiction over a juvenile, either a plaintiff or defendant, would have been clarified in the jurisdiction sections of both types of actions. LD 1758 proposed to amend the relief sections for both types of actions to clarify that a judge may order a defendant to refrain from direct or indirect contact with a plaintiff.

The bill proposed to amend the definition of household members in protection from abuse actions to provide coverage for sexual partners, whether or not the partners have actually lived together in a household. LD 1758 proposed to remove landlords and their property and tenants from the protection from harassment law. Equivalent protection would have been provided by creating a new section in the landlord and tenant laws giving landlords the right to commence an action for the protection of rental property or tenants.

Committee Amendment "A" (H751) proposed to retain the provisions of current law allowing a business to be a plaintiff in seeking and receiving protection from harassment.

The amendment proposed to update the definition of "member of the actor's family or household" in the section of the Maine Criminal Code that enhances the penalties for "offenses against the person" when they are committed against a member of the actor's family or household.

The amendment proposed to allow a person to seek protection under a domestic abuse order if the person and the accused abuser are currently living together or formerly lived together, whether or not they are or were sexual partners.

Senate Amendment "A" (S581) proposed to specify that the definition of "harassment" does not include any act protected by law.

Enacted law summary

Public Law 1995, chapter 650 clarifies and harmonizes the statutes that govern protection from abuse and protection from harassment actions.

The definition of "harassment" is repealed and replaced to clarify that harassment means 3 or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing, and do in fact cause, fear, intimidation or damage to property. "Harassment" also means 3 or more events that are intended to interfere with a person's constitutional rights, consistent with the current interpretation of existing law. The new definition further provides that a single serious act, defined by reference to certain criminal acts and to civil provisions governing "hate crimes," may also serve as the basis for protection from harassment actions. Chapter 650 provides that the definition of "harassment" does not include any act protected by law.

Chapter 650 updates the definition of "member of the actor's family or household" in the section of the Maine Criminal Code that enhances the penalties for "offenses against the person" when they are committed against a member of the actor's family or household to be consistent with the definition in the protective orders statutes as amended in 1995.

Jurisdiction over a juvenile, either a plaintiff or defendant, is clarified in the jurisdiction sections of both protection from harassment and protection from abuse actions. In order to ensure both legal notice and functional notice, both the juvenile and the juvenile's representative must be noticed or served with process.

The relief sections for both types of actions are amended to clarify that a judge may order a defendant to refrain from direct or indirect contact with a plaintiff.

The definition of household members in protection from abuse actions is amended to provide coverage to sexual partners, whether or not the partners have actually lived together in a household, and to persons living together, whether or not they are sexual partners.

Landlords and their property and tenants are removed from the protection from harassment law. Equivalent protection is provided by creating a new section in the landlord and tenant laws giving landlords the right to commence an action for the protection of rental property or tenants.

LD 1765 An Act to Amend the Standards for Appointing the Guardian of a Minor PUBLIC 623

Sponsor(s)
MITCHELL JE

Committee Report
OTP-AM

Amendments Adopted
H-792

LD 1765 proposed to provide for the appointment of a guardian even though all parental rights of custody have not been terminated. The bill also proposed to clarify that once a guardian has been appointed, termination of the guardianship can not occur until a review of the best interests of the child has occurred.

Committee Amendment "A" (H/92) proposed to clarify language to require each parent who still retains parental rights and responsibilities to consent to a "guardianship by consent," but would have eliminated the need for consent from a parent whose parental rights and responsibilities have been terminated.

The amendment would have required that when the Probate Court Judge appoints a limited guardian, the order appointing the guardian would have to specify the powers and the duties of the guardian and the parental rights and responsibilities retained by the parent of the minor.

The amendment proposed to assign the burden of proof when a parent wants to terminate a guardianship.

Enacted law summary

Public Law 1995, chapter 623 provides for the appointment of a guardian even when all parental rights of custody have not been terminated. Each parent who still retains parental rights and responsibilities must consent to a guardianship by consent; the need for consent from a parent whose parental rights and responsibilities have been terminated is eliminated. The term "natural parent" is replaced to encompass situations in which adoptive parents consent to the appointment of a guardian.

Chapter 623 requires that when the Probate Court Judge appoints a limited guardian, the order appointing the guardian must specify the powers and the duties of the guardian and the parental rights and responsibilities retained by the parent of the minor.

Chapter 623 clarifies that once a guardian has been appointed, termination of the guardianship can not occur until a review of the best interests of the child has occurred. The guardian has the burden of proving by a preponderance of the evidence that the termination of the guardianship is not in the best interest of the minor if a petition for termination is filed. If the court determines that the guardianship should not terminate, the court may dismiss subsequent petitions for termination unless there is a substantial change of circumstances.

LD 1787 An Act to Place Penobscot Land in Trust

PUBLIC 601

Sponsor(s)
BISULCA

Committee Report
OTP

Amendments Adopted
S-524

LD 1787 proposed to place in "trust status" land owned by the Penobscot Nation that was acquired by quit claim deeds from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation and located in Township 1, Range 6, W.E.L.S.

Senate Amendment "A" (S524) proposed to clarify the description of the property to be transferred.

Enacted law summary

Public Law 1995, chapter 601 places in "trust status" land owned by the Penobscot Nation that was acquired by quit claim deeds from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation and located in Township 1, Range 6, W.E.L.S. This land is approximately 5,464 acres. Under the terms of the Act to Implement the Maine Indian Claims Settlement, the Maine Revised Statutes, Title 30, section 6205, subsection 5, this conversion needs the express consent of the Maine Legislature, the legislative body of the town and the Maine Indian Tribal State Commission.

LD 1799 An Act Concerning Notice in Foreclosure Proceedings

PUBLIC 654

Sponsor(s)
TUTTLE
GWADOSKY

Committee Report
OTP-AM

Amendments Adopted
H-793
S-571

LD 1799 proposed to require a mortgagee to notify a cosigner designated on a mortgage obligation prior to accelerating maturity of the unpaid balance of the obligation or otherwise enforcing the mortgage.

Committee Amendment "A" (H793) proposed to delete the current provision that exempts supervised lenders and supervised financial organizations from the requirements of the law governing foreclosure of mortgages upon mortgagor-occupied residential property.

Senate Amendment "A" (S571) proposed to prohibit a mortgagee from accelerating maturity of an unpaid balance of a mortgage that secures a loan for personal, family or household use unless the specified requirements are met.

Enacted law summary

Public Law 1995, chapter 654 deletes the current provision that exempts supervised lenders and supervised financial organizations from the requirements of the law governing foreclosure of mortgages upon mortgagor-occupied residential property. It prohibits a mortgagee from accelerating maturity of an unpaid balance of a mortgage that secures a loan for personal, family or household use unless the specified requirements are met. It ensures that all mortgagors and cosigners will receive reinstatement notice, notice of the right to cure or equivalent notice. The chapter does not require additional notice if the mortgage deed contains language requiring notice to mortgagors and cosigners. Similar notice is currently required in a mortgage sold on the secondary market.

LD 1805 An Act to Amend the Charter of the Somerset Woods Trustees P & S 66
in Order to Qualify the Charter as a Charitable Corporation
under Internal Revenue Service Rules

Sponsor(s)
MILLS

Committee Report
OTP

Amendments Adopted

LD 1805 proposed to amend the charter of the Somerset Woods Trustees so that the corporation would qualify as a charitable corporation under guidelines established by the Internal Revenue Service.

Enacted law summary

Private and Special Law 1995, chapter 66 amends the charter of the Somerset Woods Trustees, specifying the corporation's permissible activities to ensure that the corporation qualifies as a charitable corporation under guidelines established by the Internal Revenue Service.

LD 1811 An Act to Correct Errors and Inconsistencies in the Laws of PUBLIC 625
Maine EMERGENCY

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-541
S-555

LD 1811 proposed to correct technical errors and inconsistencies in the Laws of Maine.

Committee Amendment "A" (§41) proposed to correct technical errors and inconsistencies in the Laws of Maine. It also proposed to correct errors and inconsistencies that may be considered substantive, contained in Part C.

Senate Amendment "A" To Committee Amendment "A" (§55) proposed to remove provisions correcting a conflict in the laws regarding vacancies in the office of sheriff. That section of the Maine Revised Statutes was contained in LD 1700 in the State and Local Government Committee.

Enacted law summary

Public Law 1995, chapter 625 corrects errors and inconsistencies in the Laws of Maine. Any corrections which may be considered substantive are included in Part C.

Public Law 1995, chapter 625 is effective April 8, 1996.

LD 1842 An Act to Recodify and Revise the Maine Revised Statutes, PUBLIC 694
Title 19

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
H-897

LD 1842 proposed to recodify and revise Title 19 of the Maine Revised Statutes.

Part A of the bill proposed to amend the law in response to the recent court case, White v. Allen, 667 A.2d 112 (Me. 1995) governing the calculation of past child support awards

Parts B, C and D proposed to recodify and revise the Maine Revised Statutes, Title 19 pursuant to Public Law 1995, chapter 484. The Joint Standing Committee on Judiciary combined the draft recodifying the Title with substantive changes.

Committee Amendment "A" (H897) proposed changes to the bill and current law. Significant changes include the following.

1. The amendment proposed to establish the Family Law Advisory Commission beginning in 1996.
2. It proposed updated language and removal of inconsistencies in the marriage license statutes.
3. It proposed to amend the requirements concerning recording divorce decrees, or abstracts of divorce decrees, that affect ownership of real property to indicate that the court clerk must prepare or approve the abstract to be recorded.
4. It proposed to revise the term "abandonment" of the family residence as used in the determination of parental rights and responsibilities.
5. It proposed to reinstate program review and establish biennial reporting requirements for occupational license and driver's license revocation based on noncompliance with child support orders.
6. It proposed to clarify language governing an employer's responsibility to notify the Department of Human Services when the employer is withholding pay from an employee pursuant to an order or assignment and the employee leaves that employment.
7. It proposed an unallocated section of law concerning rule-making authority and legislative review of the rules.

8. It proposed to amend the waiver of notice provision in the adoption laws to specifically state the effect of a waiver of notice, and to include an option that allows the person to neither admit nor deny that he is the father of the child named in the waiver of notice.
9. It proposed to revise the language concerning consents or surrender and releases executed in other states.
10. It proposed a study to be undertaken by the Family Law Advisory Commission on parental rights and responsibilities and the treatment of fathers and mothers in law and practice.
11. It proposed an effective date of October 1, 1997 for all Parts other than Part A.

Enacted law summary

Public Law chapter 694 recodifies and revises Title 19 of the Maine Revised Statutes.

Part A of the Chapter 694 amends the law in response to the recent law court case White v. Allen, 667 A.2d 112 (Me. 1995), governing the calculation of past child support awards. The child support tables must be used in all cases to calculate past support. Part A also amends the adoption laws, including a revision of the waiver of notice requirements for putative fathers and legal fathers who are not the biological fathers. The provisions governing reciprocity with other states are also revised. Part A also establishes the Family Law Advisory Commission and requires the Commission to study and report back on parental rights and responsibilities and how fathers and mothers are treated under the law and in practice. Part A is effective July 4, 1996.

Part B of Chapter 694 repeals and replaces Title 19 of the Maine Revised Statutes in order to update language, make provisions consistent and reorganize the Title to be easier to use. Chapter 694 also does the following.

1. It makes corrections in the terms relating to recording intentions to be married and the resulting marriage license.
2. It repeals the exemption from the 3-day marriage license waiting period for newly arrived immigrants.
3. It deletes the revision of the judicial separation statutes proposed in the bill and replaces it with the current judicial separation process. The filing fee for judicial separation is deleted, leaving it to court rules that establish filing fees for other actions.
4. It amends the language referring to incarceration for nonsupport to be gender neutral by applying to all spouses, not just husbands.
5. It changes the term "alimony" to "spousal support."
6. It amends the requirements concerning recording divorce decrees, or abstracts of divorce decrees, that affect ownership of real property to indicate that the court clerk must prepare or approve the abstract to be recorded.
7. It revises the term "abandonment" of the family residence as used in the determination of parental rights and responsibilities. Instead, the term "departure from the family residence" is used to eliminate negative connotations associated with the term "abandonment." "Departure" is used as a broader term. In addition, new language is inserted in recognition of the fact that one of the spouses may depart from the family residence by mutual agreement of the spouses.
8. It reinstates program review and establishes biennial reporting requirements for occupational license and driver's license revocation based on noncompliance with child support orders.
9. It clarifies language governing an employer's responsibility to notify the Department of Human Services when the employer is withholding pay from an employee pursuant to an order or assignment and the employee leaves. Current law requires an employer to report the termination to the Department of Human Services within 15 days if the pay was withheld pursuant to an income-withholding order, but within 30 days if the pay was withheld pursuant to an order to withhold and deliver or an assignment of earnings. This amendment maintains that dichotomy. It also makes consistent the information reported.
10. It gives the State Registrar of Vital Statistics the authority to file an action in District Court to have a marriage performed in violation of the statute declared void.

11. It amends the grounds and procedures for divorce by deleting "collusion" and specifies that the court may not grant a divorce to parties who seek a divorce for fraudulent purposes. It also combines provisions concerning the payment of attorneys fees.
12. It makes the provisions concerning protection from abuse, located in Title 19, chapter 101, consistent with the changes in LD 1758.
13. It states that rules adopted under Title 19 continue in effect until amended or repealed. It also states that the rulemaking authority contained in the new Title 19 is a continuation of existing rulemaking authority in Title 19, and is not new rulemaking authority delegated after January 1, 1996 for the purposes of the Maine Administrative Procedure Act concerning legislative review of rules.
14. It amends language to be gender neutral to clarify that either a husband or a wife may bring an action for loss of consortium.
15. It revises certain notice provisions in the adoption laws.
16. It creates a Part E listing the major policy changes in the bill as amended.

Parts B, C, D and E are effective October 1, 1997.

**LD 1847 An Act to Amend the Freedom of Access Laws to Include
Advisory Boards and Commissions in the Definition of
Public Proceedings**

PUBLIC 608

Sponsor(s)

BUTLAND

MITCHELL EH

Committee Report

OTP-AM

Amendments Adopted

S-529

LD 1847 proposed to add policyinfluencing and faefinding advisory boards and commissions to the definition of "public proceedings" in the freedom of access laws.

Committee Amendment "A" (§529) proposed to replace the bill. It would have expanded the entities to which the freedom of access laws apply to include advisory organizations, including authorities, boards, commissions, committees, councils, task forces and similar organizations that are advisory in nature and that are created by law or resolve or by an Executive Order of the Governor. Under the amendment, the law, resolve or Executive Order may exempt the organization from the freedom of access laws by including a specific statement that the organization is exempt from the freedom of access laws. The meetings of all these organizations would have been subject to the public meeting and public notice requirements.

The amendment proposed an exemption from the definition of "public records" the working papers and internal documents of an advisory organization.

Enacted law summary

Public Law 1995, chapter 608 expands the list of entities to which the freedom of access laws apply to include advisory organizations, including authorities, boards, commissions, committees, councils, task forces and similar organizations that are advisory in nature and that are created by law or resolve or by an Executive Order of the Governor. Any boards or commissions already subject to the freedom of access laws are not also covered by the new provisions. The law, resolve or Executive Order may exempt the organization from the freedom of access laws by

including a specific statement that the organization is exempt. The meetings of all these organizations are subject to the public meeting and public notice requirements.

Chapter 608 creates a new exemption from the definition of "public records" for the working papers and internal documents of an advisory organization until the organization goes out of existence, at which time they become public records. Working papers become public records before the organization terminates if they are distributed by a member or in a public meeting of the advisory organization.

LD 1868 An Act to Prohibit the Photographing or Videotaping of Jury Deliberations **DIED BETWEEN HOUSES**

Sponsor(s)
LIBBY JD

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted

LD 1868 proposed to prohibit the recording or viewing of jury deliberations by electronic means. A violation of the prohibition would have been a Class E crime.

Committee Amendment "A" (H887) is the Majority Report. It proposed two changes to the bill. First, it would have eliminated the prohibition on viewing jury meetings and deliberations that are recorded or transmitted by electronic means. Second, it would have deleted the criminal penalty. (Not adopted)

The House of Representatives accepted the OTP-AM Majority Report, while the Senate accepted the Minority Report of ONTP. The bill died between houses when an agreement was not reached.